

RECEIVED JUN 8 2007  
FEDERAL ELECTION COMMISSION  
SECRETARIAT

BEFORE THE FEDERAL ELECTION COMMISSION

In the Matter of )  
MUR 5906 )  
The Schwan Food Company Inc. )  
The Schwan Food Company Inc., PAC )  
and Gordon Crow, in his official capacity )  
as Treasurer )

2007 JUN -8 A 10: 28

CASE CLOSURE UNDER THE  
ENFORCEMENT PRIORITY SYSTEM

**SENSITIVE**

**GENERAL COUNSEL'S REPORT**

Under the Enforcement Priority System, matters that are low-rated

are forwarded to the Commission with a recommendation for dismissal. The

Commission has determined that pursuing low-rated matters compared to other higher rated matters on the Enforcement docket warrants the exercise of its prosecutorial discretion to dismiss these cases.

The Office of General Counsel scored MUR 5906 as a low-rated matter. In this case, the complainant states that the Schwan Food Company Inc., PAC and Gordon Crow, in his official capacity as Treasurer (the "PAC"), a "527" organization, has received unreported in-kind corporate contributions from the Schwan Food Company Inc. ("Schwan"), a Minnesota corporation, because the PAC allegedly operates from Schwan's headquarters and uses corporate resources such as company aircraft. According to the complainant, the PAC failed to report the alleged corporate contributions as in-kind contributions.

In addition, the complainant alleges various reporting violations, including the PAC's alleged failure to report receipts and disbursements for entertainment and meals reportedly provided to PAC members and their families, sometimes for free. The complainant also asserts that there are errors in the PAC's reporting of contributions from individuals on its

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1 Schedule A. Finally, the complainant states similar issues have arisen at the state level and  
2 that, as a consequence, the PAC is no longer authorized as a Minnesota PAC.

3 The respondents cite to 11 C.F.R. §§ 114.1 and 114.5 in support of their activities.  
4 Specifically, the respondents counter the suggestion that they are involved in receiving in-  
5 kind contributions from their connected organization by asserting that their activities should  
6 be considered part of a connected organization providing assistance for the “establishment,  
7 administration, and solicitation of contributions to a separate segregated fund,” as provided in  
8 11 C.F.R. § 114.1(a)(2)(iii).

9 In addressing the allegation that the PAC failed to report receipts and disbursements,  
10 the respondents note that the complainant did not allege that any of the expenditures by the  
11 separate segregated fund for activities, such as picnics, was a direct or indirect expenditure of  
12 funds in connection with a candidate, political party, committee, organization, or any other  
13 person in connection with a federal election. Thus, the respondents contend that under the  
14 Commission’s regulations the complainant failed to allege any violation of the Federal  
15 Election Campaign Act.

16 In light of the apparent de minimis and speculative nature of the allegations presented  
17 in MUR 5906 and in furtherance of the Commission’s priorities and resources, relative to  
18 other matters pending on the Enforcement docket, the Office of General Counsel believes  
19 that the Commission should exercise its prosecutorial discretion and dismiss the matter. *See*  
20 *Heckler v. Chaney*, 470 U.S. 821 (1985).

### 21 RECOMMENDATION

22 The Office of General Counsel recommends that the Commission dismiss MUR  
23 5906, close the file effective two weeks from the date of the Commission vote, and approve  
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the appropriate letters. Closing the case as of this date will allow CELA and General Law  
and Advice the necessary time to prepare the closing letters and the case file for the public  
record.

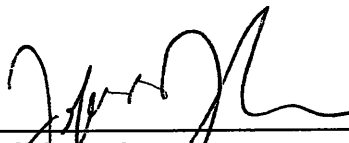
Thomasenia P. Duncan  
General Counsel

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Date ce/8/07

BY:



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Special Counsel  
Complaints Examination  
& Legal Administration



Jeff S. Jordan  
Supervisory Attorney  
Complaints Examination  
& Legal Administration



April Sands  
Attorney

Attachment:  
Narrative in MUR 5906

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5 **MUR 5906**

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7 **Complainant:** Robert T. Quasius

8  
9 **Respondents:** The Schwan Food Company Inc.  
10 The Schwan Food Company Inc., PAC and Gordon Crow,  
11 in his official capacity as Treasurer

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13 **Allegations:** The complainant states that the Schwan Food Company Inc., PAC  
14 and Gordon Crow, in his official capacity as Treasurer (the "PAC"), a "527"  
15 organization, has received unreported in-kind corporate contributions from the Schwan  
16 Food Company Inc. ("Schwan"), a Minnesota corporation, because the PAC allegedly  
17 operates from Schwan's headquarters and uses corporate resources such as company  
18 aircraft. According to the complainant, the PAC failed to report the alleged corporate  
19 contributions as in-kind contributions.

20  
21 In addition, the complainant alleges various reporting violations, including the  
22 PAC's alleged failure to report receipts and disbursements for entertainment and meals  
23 reportedly provided to PAC members and their families, sometimes for a fee. The  
24 complainant also asserts that there are errors in the PAC's reporting of contributions from  
25 individuals on its Schedule A. Finally, the complainant states similar issues have arisen  
26 at the state level and that, as a consequence, the PAC is no longer authorized as a  
27 Minnesota PAC.

28  
29 **Response:** The respondents rely on 11 C.F.R. §§ 114.1 and 114.5, which they  
30 claim directly relates to the type of activities the complainant alleges are in-kind  
31 contributions. The respondents assert that these activities should be considered part of  
32 the connected organization providing assistance for the "establishment, administration,  
33 and solicitation of contributions to a separate segregated fund." As such, corporate funds  
34 are permissible and explicitly permitted under 11 C.F.R. § 114.1(a)(2)(iii).

35  
36 The respondents also note that with respect to the allegations of failure to report  
37 receipts and disbursements, 11 C.F.R. § 114.5(e)(1) states that corporations are not  
38 required to report payments, which are not contributions or expenditures. Contributions  
39 or expenditures must, according to the definition at 11 C.F.R. § 114.1(a)(1), be in  
40 connection with a Federal election. Thus, the respondents claim that because there are no  
41 allegations in the complaint that any of this activity occurred in connection with a federal  
42 election there is no violation of the Act.

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44 **Date complaint filed:** March 12, 2007

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46 **Response filed:** April 6, 2007

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